



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

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**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENFORCEMENT ACTION - ORDER BY CONSENT**

**ISSUED TO**

**Luis H Vargas Zamora & Yowaina Lopez**

**FOR**

**190 Doc Stone Road, Stafford, Virginia**

**Unpermitted Activity**

**Pollution Incident Report Number 299146**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Department of Environmental Quality and Luis H Vargas Zamora & Yowaina Lopez regarding unpermitted activity at 190 Doc Stone Road, Stafford, Virginia, for the purpose of resolving violations of the Virginia Waste Management Act and the applicable regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the terms used in this Consent Order have the meanings assigned to them in Va. Code § 10.1-1400 *et seq.*, 9 VAC 20-70-10 *et seq.*, and 9 VAC 20-81-10 *et seq.*

**SECTION C: Findings of Fact and Conclusions of Law**

1. Luis H Vargas Zamora & Yowaina Lopez (Mr. Zamora and Ms. Lopez) are each a "person" within the meaning of Va. Code § 62.1-44.3.
2. Mr. Zamora and Ms. Lopez own the property located at 190 Doc Stone Road, Stafford, Virginia, 22556 (Property).

3. The Property is a private residence that contains a single-family dwelling but is also used in affiliation with the business operations of V Z Electric & General Construction, Inc. (VZ Electric). In correspondence with DEQ, Mr. Zamora stated that new building materials for VZ Electric and wastes generated by VZ Electric are stored at the Property.
4. Mr. Zamora's and Ms. Lopez's operations at the Property are subject to the Virginia Waste Management Act and the Regulations.
5. On April 12, 2021, DEQ responded to the Property for a visit/informal inspection.
  - a. The visit was coordinated in response to a pollution complaint DEQ received from the Stafford County Fire Marshal. On April 9, 2021, a utility worker reported to the Stafford County Fire Marshal that several large piles of broken and intact used fluorescent lamps, ballasts, and other building materials were located on the Property.
  - b. DEQ staff performed a follow-up visit/informal inspection of the Property on April 14, 2022.
6. During visits to the Property on April 12, 2021, and April 14, 2022, DEQ staff observed solid waste being managed, stored, and disposed of on the Property. The waste was observed in numerous piles, drums, and pallets, and consisted of used building materials, thousands of used lamps, broken lamp pieces, and used light ballasts. Broken/crushed used lamp waste was also observed dispersed into the dirt/ground throughout the Property. There was no stated/written plan for disposal of the waste and Mr. Zamora.

During the April 2022 site visit specifically, DEQ observed that some broken used lamps and ballasts had been placed into six open drums located under an awning on the Property and that most of the previously identified piles of used and broken lamps and ballasts remained on the ground and dispersed around the Property. Large cardboard containers of used lamps were identified on the Property that were not present during DEQ's April 2021 visit. There was still no stated/written plan for disposal of the wastes.

7. Title 10.1, Chapter 14 of Virginia Waste Management Act, §10.1-1418.1 Improper disposal of solid waste, civil penalties, states that "It shall be the duty of all persons to dispose of their solid waste in a legal manner."
8. VSWMR, 9VAC 20-81-40 for Prohibitions states, in part, that: "(A) No person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the Director; (B) No person shall allow waste to be disposed of or otherwise managed on his property without a permit from the Director; (C) It shall be the duty of all persons to dispose of or otherwise manage their solid waste in a legal manner; and (D) Any person -who violates subsection (A), (B), or (C) of this section shall immediately cease the activity of improper management and the treatment, storage, or disposal of any additional wastes and shall initiate such removal, cleanup, or closure in place."

9. On June 2, 2022, DEQ issued a Notice of Violation (NOV) for the violations described above. The NOV was addressed to Luis Zamora, VZ Electric and General Construction Inc.
10. On July 18, 2022, Mr. Zamora submitted a written response to the NOV with supporting documentation. At the request of DEQ, follow-up NOV replies with updates and supplemental documentation was submitted by VZ Electric on July 29, August 30, September 8, and September 20, 2022.
11. Based on the results of the Property visits/informal inspections by DEQ staff on April 12, 2021, and April 14, 2022, the NOV issued June 2, 2022, the NOV reply/documentation submissions by Mr. Zamora on July 18, July 29, August 30, September 8, and September 20, 2022, and related correspondence between DEQ and Mr. Zamora, the Department concludes that Mr. Zamora and Ms. Lopez have violated 9VAC 20-81-40, and Title 10.1, Chapter 14 of Virginia Waste Management Act, §10.1-1418.1, as described above.
12. On September 20, 2022, Mr. Zamora notified DEQ via email that an environmental contractor had initiated work activities at the Property to complete the final phase of solid waste cleanup that had been requested by DEQ. On January 16, 2023, Mr. Zamora replied to an email request from DEQ and indicated that all subject waste had been removed from the Property, and on January 30, 2023, Mr. Zamora emailed photographs of the Property and contract/invoice documents to DEQ as documentation to support his claim that all subject waste had been removed from the Property.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Department orders Mr. Zamora and Ms. Lopez, and Mr. Zamora and Ms. Lopez agree to:

1. Pay a civil charge of **\$16,546.38** in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
Within 30 days of execution of Order	\$4,136.60 or balance
Within 120 days of execution of Order	\$4,136.60 or balance
Within 210 days of execution of Order	\$4,136.60 or balance
Within 300 days of execution of Order	\$4,136.58

2. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, or if Mr. Zamora and Ms. Lopez become subject of any insolvency proceeding, including but not limited to a voluntary or involuntary federal bankruptcy proceeding, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Mr. Zamora and Ms. Lopez. Within 15 days of receipt of such letter, Mr. Zamora and Ms. Lopez shall pay the remaining balance of the civil charge. Any acceptance by the

Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order. If the Department has to refer collection of moneys due under this Order to the Department of Law, Mr. Zamora and Ms. Lopez shall be liable for attorneys' fees of 30% of the amount outstanding.

3. All payments shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Mr. Zamora and Ms. Lopez shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Mr. Zamora and Ms. Lopez shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Department may modify, rewrite, or amend this Order with the consent of Mr. Zamora and Ms. Lopez for good cause shown by Mr. Zamora and Ms. Lopez, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Mr. Zamora and Ms. Lopez admit the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Mr. Zamora and Ms. Lopez consent to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Mr. Zamora and Ms. Lopez declare they have received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and they waive the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to

judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Order.

6. Failure by Mr. Zamora and Ms. Lopez to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Mr. Zamora and Ms. Lopez shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond their control and not due to a lack of good faith or diligence on their part. Mr. Zamora and Ms. Lopez shall demonstrate that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. Mr. Zamora and Ms. Lopez shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Mr. Zamora and Ms. Lopez. Nevertheless, Mr. Zamora and Ms. Lopez agree to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after Mr. Zamora and Ms. Lopez have completed all of the requirements of the Order;
- b. Mr. Zamora and Ms. Lopez petitions the Director or his designee to terminate the Order after they have completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or the Department terminates the Order in his or its sole discretion upon 30 days' written notice to Mr. Zamora and Ms. Lopez.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mr. Zamora and Ms. Lopez from their obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Mr. Zamora and Ms. Lopez and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of VZ Electric certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind VZ Electric to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of VZ Electric.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By their signatures below, Mr. Zamora and Ms. Lopez voluntarily agree to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Richard C. Doucette, CPG, Regional Director  
Department of Environmental Quality

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Consent Order

Luis H Vargas Zamora & Yowaina Lopez; Unpermitted Activity. Pollution Incident Report Number 299146

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Luis H Vargas Zamora & Yowaina Lopez voluntarily agree to the issuance of this Order.

Date: 05-03-2023 By: \_\_\_\_\_

  
Luis H Vargas Zamora

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